

UNITED STATES HOME DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE CROTTY

07 CIV 6218

=====X
AMERICAN HOME MORTGAGE
CORP,

Case No.: _____

Plaintiffs,

v.

ANSWER

UNITED GENERAL MORTGAGE
CORPORATION

Defendant.
=====X

Defendant United General Mortgage Corporation ("Defendant"), by its attorneys, Ropers, Majeski, Kohn & Bentley, answers the Complaint of Plaintiff American Home Mortgage Corporation ("Plaintiff") as follows:

FOR A FIRST CAUSE OF ACTION

1. Answering paragraph No. 1, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

2. Answering paragraph No. 2, Defendant admits that it is a corporation organized under the laws of the state of Pennsylvania with its principal place of business at 1412 Walter Street, Bethlehem, Pennsylvania.

3. Answering paragraph No. 3, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same. Further, Defendant also respectfully refers to the Court to the American Home Correspondent Agreement (the "Agreement") and to the AHM Correspondent Guide (the "Guide") for their content and meaning.

4. Answering paragraph No. 4, Defendant is without sufficient information

to admit or deny the allegations therein, and on that basis denies same. Further, Defendant also respectfully refers the Court to the Guide for its content and meaning.

5. Answering paragraph No. 5, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same. Further, Defendant respectfully refers the Court to the Guide for its content and meaning.

6. Answering paragraph No. 6, Defendant denies the allegations contained therein.

7. Answering paragraph No. 7, Defendant denies the allegations contained therein.

8. Answering paragraph No. 8, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

9. Answering paragraph No. 9, Defendant denies that it “failed” to repurchase the mortgage loan despite Plaintiff’s demands.

10. Answering paragraph No. 10, Defendant denies the allegations contained therein.

11. Answering paragraph No. 11, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

12. Answering paragraph No. 12, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

13. Answering paragraph No. 13, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

14. Answering paragraph No. 14, Defendant denies the allegations contained therein.

FOR A SECOND CAUSE OF ACTION

15. Answering paragraph No. 15, Defendant realleges and incorporates by reference its answers to paragraphs Nos. 1 through 14, as if fully set forth herein.

16. Answering paragraph No. 16, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same. Further, Defendant respectfully refers the Court to the Guide for its content and meaning.

17. Answering paragraph No. 17, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

18. Answering paragraph No. 18, Defendant denies the allegations contained therein.

19. Answering paragraph No. 19, Defendant is without sufficient information to admit or deny the allegations therein, and on that basis denies same.

20. Answering paragraph No. 20, Defendant denies the allegations contained therein.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Defendant alleges that said complaint fails to state facts upon which a claim for relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Defendant alleges that said complaint is barred by the Doctrine of Unclean Hands.

THIRD AFFIRMATIVE DEFENSE

Defendant alleges that Plaintiff has waived and is estopped and barred from alleging the matters set forth in the complaint.

FOURTH AFFIRMATIVE DEFENSE

Defendant alleges that at all times and places mentioned in the complaint herein, Plaintiff or others failed to perform certain conditions precedent to the duty of Defendant. The non-performance of said conditions excused Defendant's obligations under the contract and has given the Defendant the right of disaffirmance, rescission and release; Plaintiff is therefore barred from recovery herein.

FIFTH AFFIRMATIVE DEFENSE

Defendant alleges that at all times and places mentioned in the complaint herein, Plaintiff failed to mitigate the amount of its damages. The damages claimed by Plaintiff could have been mitigated by due diligence on its part or by one acting under similar circumstances. The Plaintiff's failure to mitigate is a bar to its recovery under the complaint.

SIXTH AFFIRMATIVE DEFENSE

Defendant alleges on information and belief that Plaintiff cannot assert any contractual claims set forth in its complaint because Plaintiff prevented performance of such contract by its own acts and/or omissions.

SEVENTH AFFIRMATIVE DEFENSE

Defendant alleges that said injuries sustained by Plaintiff was either wholly or in part negligently caused by persons, firms, corporations or entities other than Defendant, and said negligence is either imputed to Plaintiff by reason of the relationship of said parties to Plaintiff and/or said negligence comparatively reduces the percentage of negligence, if any, by Defendant.

EIGHTH AFFIRMATIVE DEFENSE

Defendant alleges that any injury or damage sustained by Plaintiff was the fault of Plaintiff's own intentional negligent or otherwise culpable wrongdoing, and should Plaintiff receive damages, Defendant is entitled to have the amount thereof abated, reduced or eliminated to the extent that Plaintiff's negligence caused or contributed to its injuries.

NINTH AFFIRMATIVE DEFENSE

Defendant alleges on information and belief that Plaintiff cannot assert any of the contractual claims contained in its complaint because Plaintiff materially breached said contracts.

TENTH AFFIRMATIVE DEFENSE

Defendant alleges on information and belief that this Court lacks personal jurisdiction over Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

Defendant alleges on information and belief that venue is not proper.

WHEREFORE, Defendant demands judgment dismissing the complaint in its entirety and awarding Defendant its costs and attorneys' fees, together with such other and further relief as the Court deems just and proper.

Dated: July 5, 2007

ROPERS, MAJESKI, KOHN & BENTLEY

By: 

Geoffrey W. Heineman (GH 4334)

Jung H. Park (JP 1227)

Attorney for Defendant

United General Mortgage Corporation

17 State Street, Suite 2400

New York, New York 10004

(212) 668-5927